

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

CASEY TINSLEY,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 5:18-CV-250 (MTT)
)
STONER'S PIZZA MIDDLE GA LLC,)
)
Defendant.)
)

ORDER

This cause came for consideration sua sponte based on a review of the docket in this case. The Plaintiff filed her Complaint on July 12, 2018. Doc. 1. As of October 10, 2018, which was ninety days from the date the Plaintiff filed her Complaint, there was no evidence in the record of service on the Defendant. On October 26, 2018, the Court ordered the Plaintiff to show cause as to why her case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m) for failure to serve the Defendant within ninety days of filing her complaint. Doc. 5.

The Plaintiff filed her Response on October 26, 2018. Doc. 6. In her Response to the Court's Order, the Plaintiff stated that she mailed a copy of the Complaint to the Defendant and a request for waiver of service of summons; provided proof of unsuccessful attempts to personally serve the Defendant due to being provided an incorrect home address;¹ and requested an additional thirty days to effect service. *Id.*

¹ The Plaintiff stated that her counsel received a call from the Defendant's insurer in August 2018 stating that it was notified of a claim against its insured—the Defendant. Doc. 6 at 1. The insurer told the Plaintiff's counsel that it did not believe that the Defendant would waive service and that the Defendant's

Doc. 6-1. The Court found that the Plaintiff showed good cause and granted her request for an extension to serve the Defendant until November 30, 2018. Doc. 7.

On December 14, 2018, which was two weeks from the date the Plaintiff was required to serve the Defendant, there was no evidence in the record of service on the Defendant. On December 17, 2018, the Court ordered the Plaintiff to serve the Defendant by December 31, 2018, or her case would be dismissed without prejudice. Doc. 8. As of January 2, 2019, there was no evidence in the record of service on the Defendant. If a plaintiff fails to serve the defendant within ninety days of filing her complaint, “the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Accordingly, this case is **DISMISSED without prejudice.**

SO ORDERED, this 4th day of January, 2019.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

policy did not cover the Plaintiff's claim. *Id.* at 1-2. The Plaintiff's counsel “then proceeded in finding a process server and having him trying to serve the [D]efendant.” *Id.* at 2.